

ESTTA Tracking number: **ESTTA727112**

Filing date: **02/16/2016**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

|                           |   |
|---------------------------|---|
| Proceeding                | 91225717  |
| Party                     | Defendant<br>The Third Stone Co. Ltd (Beijing)                                  |
| Correspondence<br>Address | Peng Li<br>417 S Hill St, #1142<br>Los Angeles, CA 90013<br><br>pli@cyiplaw.com |
| Submission                | Answer  |
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| Signature                 | /Dyan House/  |
| Date                      | 02/16/2016  |
| Attachments               | 2016.02-16 Answer to Notice of Opposition.pdf(89685 bytes )                     |

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

**EBAY, INC.**

**Opposer,**

**v.**

**THE THIRD STONE CO., LTD.**

**Applicant.**

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**Opposition No. 91225717**

**ANSWER TO NOTICE OF OPPOSITION**

The Third Stone Co., Ltd. ("Third Stone"), a limited liability company organized under the laws of China, timely responds to the Notice of Opposition filed January 6, 2016, as follows:

1. Third Stone admits that eBay, Inc. ("eBay") has opposed Application Serial Nos. 86/476,006 and 86/476,016. Third Stone does not have sufficient information to admit or deny the remaining allegations in the first unnumbered paragraph of the Notice of Opposition and accordingly denies the remaining allegations in said paragraph.

2. The second unnumbered paragraph of the Notice of Opposition does not require a response from Third Stone. To the extent a response is deemed to be required, Third Stone denies the allegations of said paragraph.

3. Third Stone admits the allegations in the third unnumbered paragraph of the Notice of Opposition.

4. Third Stone admits the allegations in the fourth unnumbered paragraph of the Notice of Opposition.

ANSWER

5. Third Stone does not have sufficient knowledge or information to form a belief as to the allegations in paragraph 1 of the Notice of Opposition and accordingly denies said allegations.

6. Third Stone does not have sufficient knowledge or information to form a belief as to the allegations in paragraph 2 of the Notice of Opposition and accordingly denies said allegations. As Exhibit A attached to the Notice of Opposition is blank, Third Stone can neither admit or deny the allegations with respect to the contents of Exhibit A, and accordingly denies said allegations.

7. Third Stone does not have sufficient knowledge or information to form a belief as to the allegations in paragraph 3 of the Notice of Opposition and accordingly denies said allegations. As Exhibit B attached to the Notice of Opposition is blank, Third Stone can neither admit or deny the allegations with respect to the contents of Exhibit B, and accordingly denies said allegations.

8. Third Stone admits the allegations in paragraph 4 of the Notice of Opposition.

9. Third Stone admits the allegations in paragraph 5 of the Notice of Opposition.

10. Third Stone admits that it advertises and promotes the 5MILES App on the website located at [www.5milesapp.com](http://www.5milesapp.com). Third Stone admits that its website previously contained the phrase “Buy, sell and discover local classified all within 5 miles,” but denies that the website currently contains such a phrase. As Exhibit C attached to the Notice of Opposition is blank, Third Stone can neither admit or deny the allegations with respect to

the contents of Exhibit C, and accordingly denies said allegations. Third Stone denies the remaining allegations in paragraph 6 of the Notice of Opposition.

11. Third Stone admits that the 5MILES App is available for download through the Apple App Store and Google Play store. As Exhibit C attached to the Notice of Opposition is blank, Third Stone can neither admit or deny the allegations with respect to the contents of Exhibit C, and accordingly denies said allegations.

12. Third Stone admits that a visitor to the 5MILES Website will be redirected to the Apple App Store or Google Play store depending on which icon the user selects at the 5MILES Website. As Exhibit D attached to the Notice of Opposition is blank, Third Stone can neither admit or deny the allegations with respect to the contents of Exhibit D, and accordingly denies said allegations.

13. As Exhibit D attached to the Notice of Opposition is blank, Third Stone can neither admit or deny the allegations with respect to the contents of Exhibit D, and accordingly denies said allegations. Third Stone admits the remaining allegations in paragraph 9 of the Notice of Opposition.

14. As Exhibit E attached to the Notice of Opposition is blank, Third Stone can neither admit or deny the allegations with respect to the contents of Exhibit E, and accordingly denies said allegations. Third Stone admits the remaining allegations in paragraph 10 of the Notice of Opposition.

15. Third Stone admits that a feature of the goods and services offered under the 5MILES Marks is that the application enables users to display, organize, browse, search and shop for items posted for sale in classified advertisements according to their distance from the user. Third Stone admits that the distance of 5 miles is one option users may

select in using the 5MILES App, but denies that the distance of 5 miles is the only or primary distance users can select. As Exhibit F attached to the Notice of Opposition is blank, Third Stone can neither admit or deny the allegations with respect to the contents of Exhibit F, and accordingly denies said allegations. Third Stone admits the remaining allegations in paragraph 11 of the Notice of Opposition.

16. Third Stone admits that it has objected to Opposer's use of the phrase "Everything in 5 miles." Third Stone denies the remaining allegations in paragraph 12 of the Notice of Opposition.

17. Third Stone denies the allegations of paragraph 13 in the Notice of Opposition.

18. Third Stone does not believe that a response to paragraph 14 of the Notice of Opposition is required; however, to the extent that a response is deemed required, Third Stone denies the allegations in paragraph 14 of the Notice of Opposition.

19. Third Stone denies the allegations in paragraph 15 of the Notice of Opposition.

20. Third Stone denies the allegations in paragraph 16 of the Notice of Opposition.

21. Third Stone denies the allegations in paragraph 17 of the Notice of Opposition.

22. Third Stone denies the allegations in paragraph 18 of the Notice of Opposition.

23. Third Stone denies the allegations in paragraph 19 of the Notice of Opposition.

24. Third Stone denies the allegations in the last unnumbered paragraph of the Notice of Opposition.

**Relief**

26. Third Stone denies that Opposer is entitled to any relief requested by the Notice of Opposition.

**Affirmative Defenses**


27. To the extent not specifically addressed in paragraphs 1 through 26 above, Third Stone denies each and every allegation in the Notice of Opposition.

30. Opposer's claims are barred in whole or in part by the doctrine of unclean hands.

WHEREFORE, Third Stone prays that Opposer's Notice of Opposition be denied and that Third Stone's Applications, 86/476,006 and 86/476,016 be registered on the Principal Register.

Dated: February 16, 2016

Respectfully submitted,

By:   
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ATTORNEYS FOR THE THIRD STONE  
CO. LTD.

### **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing Answer to the Notice of Opposition has been served upon counsel for Opposer by mailing said copy via First Class mail on this 16<sup>th</sup> day of February 2016, to the following address:

James R. Cady  
Hogan Lovells US LLP  
4085 Campbell Avenue, Suite 100  
Menlo Park, California 94025



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Dyan M. House